

Food and Drug Administration
Center for Food Safety and Applied Nutrition
Office of Special Nutritionals

ARMS#

12487



8 - OTHER

000001

#12487

August 12, 1997

Mr. Jack Mitchell
FDA Special Investigator
HF5 Room 1544
5600 Fishers Lane
Rockville, Maryland 20857

Re: ██████████ v. Ultimate Nutrition Products, et al.

Dear Mr. ██████████

Enclosed please find a copy of ██████████ deposition transcript for your review.

Should you have any questions or comments, please feel free to contact me.

Very truly yours, ()

██████████
Enclosures

97 AUG 20 AM 1:08

RECEIVED
CLINICAL RESEARCH
& REVIEW/OSN HFS-452



000002

APPEARANCES:

[REDACTED]
On behalf of the Plaintiffs.

[REDACTED]
On behalf of Defendant [REDACTED]
[REDACTED]

[REDACTED]
On behalf of Defendant Ultimate
Nutrition.

000003

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT

CASE NO.

on Behalf of Himself, and
All others Similarly
Situating,

Plaintiffs,

vs.

and ULTIMATE NUTRITION
PRODUCTS, INC.,

Defendants.

Wednesday, September 6, 1995
11:20 a.m. - 3:00 p.m.

DEPOSITION OF

000004

The deposition of [REDACTED] a
 witness of lawful age, taken for the purpose of dis-
 covery and for use as evidence in the above-styled
 cause; pending in the United States District Court,
 [REDACTED], pursuant to notice,
 before [REDACTED] shorthand reporter and Notary
 Public in and for the State of [REDACTED] at [REDACTED], at
 the time and place aforesaid.

I N D E X

Witness

Direct

Page

[REDACTED]

[REDACTED]

4

96

Defendant Exhibits for ID

1

2

55

83

000005

Thereupon:

[REDACTED]
was called as a witness by the Defendants and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. [REDACTED]

Q Good morning, [REDACTED]

A How do you do?

Q You just sat through the deposition of your wife. I know that you've been through many depositions as a police officer. You told us that in your answers to interrogatories.

So let me just reiterate very briefly what I told your wife, since this may be your first deposition as a party. Is it in fact your first deposition as a party?

A Yes, basically.

Q Don't guess, don't assume. Tell us what you know. If you don't remember tell us you don't remember. If you don't understand my question let me know you don't understand it. Tell me what it is you don't understand about it. I'll be happy to rephrase it.

000006

1
2 If you need to take a break for whatever
3 reason tell us that. We'll be glad to take a break.
4 Your attorney already advised us he'd like a break
5 around noon or 12:30 for lunch. No problem. We'll
6 be happy to do that. If you need to break a little
7 earlier because you're hungry we can always break a
8 little earlier.

9 A I appreciate you being professional with
10 it.

11 Q Well, I try to be professional, at least.

12 A I've run into a lot of attorneys, I guess
13 public defenders--

14 Q Well, I don't find that discourtesy gets
15 anybody anywhere. I'll try to be courteous to you and
16 I know you'll be to me. All right?

17 A Thank you.

18 Q Let's start first with a little back-
19 ground information on yourself. Your complete name is
20 what?

21 A [REDACTED]

22 Q And your parents' names are?

23 A [REDACTED] and [REDACTED]

24 Q And you have one sibling?

25 A Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q [REDACTED]

A [REDACTED]-I can't remember her middle
name-[REDACTED]

Q Okay. Now, does your father have any
brothers or sisters?

A He had three brothers who passed away,
and has two--three that passed away, one I was named
after, and one living, and no sisters.

Q So he had a total of four brothers?

A Right, four.

Q And one is still living?

A One's still living.

Q What is his name?

A [REDACTED]

Q And where is he located?

A [REDACTED]

Q And one of the deceased brothers was
named [REDACTED]?

A Right. He was killed the day after World
War II ended. And I was named after him. A kamikaze
hit his plane--hit his ship.

Q The day after World War II ended?

A I think it was the day after the war
ended. My father was like, I think, five or six years

000008

older. Like a twenty-two year difference between his oldest brother and him.

Q Your father was the youngest?

A Youngest.

Q And [REDACTED] would be what, the second youngest?

A I think the third, because my grandmother adopted one of his brothers from an orphanage. I think he was in his teen years. I think he was about my father's age, when my father was in high school. He was like a little older than my father. The one that's living is probably sixty-five or seventy.

Q So one of the dead brothers is adopted?

A Adopted.

Q One of the dead brothers was killed the day after World War II ended?

A That's correct.

Q [REDACTED] is a blood-related brother, and he's still alive in [REDACTED]?

A Yes.

Q And the third one, do you know what happened to him?

A The older--I think he died from diabetes.

000009

1
2 I don't know what he had. He was about almost eighty,
3 seventy-eight or eighty.

4 Q Do you know where he lived?

5 A Also [REDACTED]

6 Q Is that where your family's from?

7 A Some. They're actually from--my father
8 I think was born in [REDACTED]

9 Q But your father's family is essentially
10 from [REDACTED]?

11 A Really [REDACTED] and [REDACTED]. He's
12 from [REDACTED]. I think he grew up both in

13 [REDACTED] and [REDACTED]

14 Q Do you know the name of the brother who
15 died from diabetes?

16 A [REDACTED] I'm not sure if it was
17 diabetes. That's what I think it was.

18 Q How about your mother? Does she have any
19 brothers or sisters?

20 A She has two brothers and no sisters.

21 Q Did she have any that have died?

22 A No.

23 Q Have you met all the brothers and
24 sisters?

25 A Yes, I have.

000010

Q Where do they reside?

A One's in--I believe it's [REDACTED],

[REDACTED], and the other one's in [REDACTED]

Q And how about the sister?

A No. She has no sisters. She has two brothers.

Q Okay. What's the name of the brother in

[REDACTED]?

A [REDACTED]

Q And how about the one in [REDACTED]

A [REDACTED].

Q Have either of your mother's brothers ever suffered any strokes?

A No. Both in excellent health.

Q How about [REDACTED]? Has he ever suffered a stroke?

A No. He's in good health.

Q How about [REDACTED]?

A No.

Q And do you know if [REDACTED] had suffered any strokes before he died of diabetes?

A Not that I know of. I don't think so.

Q Does either your father or [REDACTED] suffer from any chronic illnesses? By chronic I mean

000011

1
2 like diabetes or cancer or hypertension.

3 A No.

4 Q Any ailments related to their hearts?

5 A No. I have longevity on both sides of
6 the family.

7 Q Has your dad ever had a heart attack?

8 A No.

9 Q How about [REDACTED]?

10 A No.

11 Q Have either of your mother's brothers
12 ever had a heart attack?

13 A No.

14 Q None of your grandparents are alive?

15 A No.

16 Q Do you know what any of them died of?

17 A My--I think my grandfather on my father's
18 side died of cancer when my father was, I guess, in
19 high school. He was like forty-something years older
20 than my father.

21 And my grandmother on my father's side
22 passed away when she was eighty-nine, in 1990 or '91.
23 I'm not sure what she passed away from.

24 And my mother's side, her mother died
25 when she was in her seventies. I'm not sure what she

000012

1
2 passed away from. No, she was eighty. I'm not sure
3 what she passed away from.

4 And my mom's father died when he was in
5 his seventies. And I think he had some type of cancer,
6 I think like from smoking, either lip or some kind of
7 like throat cancer or lung cancer. It was lung cancer.

8 Q Have you ever been diagnosed with any
9 chronic illnesses?

10 A No.

11 Q Have you ever smoked cigarettes?

12 A No. When I was a little kid I tried them.
13 I never smoked.

14 Q Never smoked any cigars?

15 A Once in a while I'll smoke a cigar. I
16 don't inhale them. It's not really that often.

17 Q How about your use of alcohol? Would
18 you characterize it as social?

19 A Yeah, social.

20 Q Do you have a beer a day or a drink a day?

21 A No. It's like maybe every other weekend,
22 like a football game. I've gone like months without
23 drinking anything. I try not to drink beer at all.
24 Once in a while we'll have like wine when we go out.
25 I don't drink that much.

000013

1

Q What is your date of birth?

2

A [REDACTED]

3

Q And your Social Security number?

4

A [REDACTED]

5

Q Now, you currently reside where?

6

A [REDACTED]

7

Q Is that a house?

8

A It's a house, yeah.

9

Q Do you own that?

10

A Yeah. I bought it three years before

11

I got married, but now we both own it.

12

Q And where did you live before that?

13

A At my parents' house.

14

Q And that address is?

15

A [REDACTED]

16

Sorry.

17

Q You're still pretty close to--

18

A It's about a mile and a half away.

19

Before I bought the house I pulled all the crime reports in the area. It's like one of the lowest crime areas in [REDACTED]

20

21

22

Q [REDACTED]?

23

A [REDACTED] area. Over there it's real--

24

Q Where did you attend high school?

25

000014

1
2 A [REDACTED]

3 Q [REDACTED]

4 A Yeah.

5 Q Before that where did you attend junior
6 high?

7 A Also [REDACTED]

8 Q And how about before that? Where did
9 you attend elementary school?

10 A [REDACTED]

11 Q All six grades there?

12 A No. I think second to sixth grade there.
13 And before that was the years they were bussing
14 students from place to place. And I went to [REDACTED]
15 [REDACTED] and [REDACTED] That was like '71
16 and '72.

17 Q That would have been K thru 2? And then
18 2 thru 6 at [REDACTED]

19 A That's correct.

20 Q 7 thru 9 at [REDACTED]

21 A Yeah.

22 Q And then 10 thru 12 [REDACTED]
23 High School?

24 A That's correct.

25 Q Did you play intrascholastic sports at

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[REDACTED]?

A Yeah, football, wrestling, track.

Q They didn't have intrascholastic sports at the junior high school, did they?

A No. They just had--well, they did wrestling. I wrestled. They didn't have a football team, though.

Q When you wrestled at [REDACTED] [REDACTED] did you have a coach?

A Yes, I did.

Q What was his name?

A I think it was the PE, the regular PE coach, which was, I believe, [REDACTED]

Q What was the year you graduated from [REDACTED]

A In '83, June of '83.

Q Did you participate in any types of non-intrascholastic football while you were in high school, like [REDACTED], I think it's called?

A When I was little, when I was young, that age I was too big to play. You had to meet like a certain weight requirement, and I was like--I had not like an ounce of fat, and I was almost five-ten. I think you had 135, 140, and I was like 175, 180.

1
2 So my father tried to get the School
3 Board to let me practice with senior high, to get
4 the experience. He was going to have his attorney
5 sign up if I got hurt he'd be responsible. So of
6 course the School Board wouldn't do that.

7 Q What grade would that have been when you
8 were five-ten and 175?

9 A Ninth grade.

10 Q Now, when you went to [REDACTED]
11 [REDACTED], when you started there as a sophomore
12 what was your height and weight, if you recall?

13 A Five-tenish, one-ninety.

14 Q And did you begin playing football at
15 the time?

16 A Yeah. That was the first year I played
17 actually organized football, was that year.

18 Q Did you play on the JV squad that year?

19 A For the first part of that year.

20 Q Then you got moved up to varsity?

21 A Yeah.

22 Q What position did you play?

23 A I had played every--mainly offensive
24 guard and defensive line. I kept being moved around
25 the first year or two.

Q See what position you played best?

A I really don't know, because I got-- after my junior year I got a couple of knee operations, where that was like kind of ended my football career. Even though I had torn ligaments and I had an operation I tried to come back. I played, and I got reinjured, and I got another operation. So I never really reached my full potential in football.

Q Okay. Did you receive a letter in football in your sophomore year or for your sophomore year?

A Yeah, I think so, all three years.

Q All three years you got a varsity letter?

A Yes.

Q Who was your coach in your freshman year?

A Okay, the freshman--

Q Sophomore.

A Was--I can't remember his name. [REDACTED]

I think, [REDACTED]. And then my junior and senior year was [REDACTED], who is now the coach--I believe he's at [REDACTED]

Q In your junior and senior years did you have any assistant coaches that worked with you more closely than the head coach?

1
2 A Yeah. It was Coach [REDACTED] I don't
3 remember his first name.

4 Q [REDACTED]

5 A [REDACTED] He was a math teacher. I
6 don't know where he's at now.

7 Q Was he the offensive line coach?

8 A He was the offensive line coach.

9 Q In your senior year what was your weight
10 and height?

11 A I was about five-eleven, two-twenty.

12 Q What's your weight now?

13 A Two fifty-five.

14 Q What's your height?

15 A Five-eleven, five-eleven and a half. It
16 depends. I feel like I'm shrinking. Last time I had
17 a physical my height went down a half inch.

18 Q Okay. When you wrestled what weight
19 division did you wrestle in?

20 A My sophomore year I believe it was one
21 eighty-eight, was the actual weight class. And my
22 junior and senior years it was two twenty-three was
23 the weight class.

24 Q Two two three?

25 A Yes.

Q How about in track? What events did you do?

A I did--in junior high I ran like the 88 and 440, but then senior high the shot-put, just one year. And then after that I didn't do track anymore.

Q What year did you do shot-put?

A 19--I believe it was '81. The beginning of the year would have been '80, and then the latter part of my sophomore year would have been '81.

Q When you wrestled who was your coach?

A [REDACTED]

Q Is he still there, do you know?

A He's at--I ran into him a week back. He's at [REDACTED] He's the coach there, as well as he teaches something.

Q I'm pretty sure [REDACTED] had its own weight room. Is that right?

A Yeah.

Q And as part of your workout for football and wrestling did you work out in the weight room?

A Yes, I did.

Q Did they have supervised workouts?

A There were coaches in the room, but it wasn't like a personal trainer type deal. It was just

they would help you if you needed help or instruction. But they weren't on top of you monitoring everything that you did.

Q Okay. Were they weight room coaches or were they coaches from different sports that just came in and watched?

A I believe they were all coaches from other sports. Most of them are PE teachers. And some of them taught other things. The ones that were PE teachers were the ones actually there supervising.

Q Okay. Did you work out in the weight room on pretty much a daily basis?

A Yeah. Most everybody did if they played football, wrestled.

Q Did you have any kind of clubs for people to achieve certain levels? Like I don't know if--in high school I think there was a 225 club and a 300 club, meaning you could bench-press 225 pounds or 300.

A Yeah, a T-shirt I think they give you.

Q For what?

A For bench-pressing.

Q For what weight?

A They have them different weights.

Q Did you achieve any of those weights?

1
2 A Yeah, I think the 300 pounds in high
3 school. Those are your 275 and 300.

4 Q Did you ever have any strength competi-
5 tions in the weight room, either formal or informal?

6 A We did informally. I was like on--to be
7 honest, I was always--I had two knee operations, and
8 I was always--it seems like I was always recovering
9 from knee operations in football. I had a cast for
10 about six or eight weeks the second time, and the
11 first time it was arthroscopic surgery, where it was
12 only maybe six weeks.

13 But you can't put any weight on it. You
14 could walk around. You just couldn't lift weight with
15 the leg.

16 Q Who was the doctor who performed the
17 surgery on you?

18 A [REDACTED]

19 Q Did he perform both surgeries?

20 A I think so. I'm pretty sure he did.

21 Q What hospital did the surgeries happen at?

22 A [REDACTED]

23 Q And Dr. [REDACTED] would be an orthopedic
24 surgeon?

25 A That's correct.

Q Other than the two knee operations did you have any other operations prior to leaving high school?

A As a child I had undescended testicles and a hernia operation. I didn't have any other injury type. The only other thing I had in high school was my wisdom tooth out, which is not really an operation, but--

Q Now, what hospital did the undescended testicles and hernia operation take place at?

A I'm not sure. It was either [REDACTED] or [REDACTED] I was born in [REDACTED]

Q So this would have been even prior to your starting school?

A Yeah. I was an infant. I don't know if they did it when I was one week old or how they did it back then.

Q It was very young?

A Yeah.

Q Any other hospitalizations other than the ones we've talked about so far, prior to graduating from high school?

A I don't know if--I had a hernia operation.

I was about seven years old, seven or eight, at

[REDACTED] And I've been in the hospital, like emergency room, being a cop, for--like I had a car crash once.

Q We're going to get around to those. Right now I'm just confining to before you graduated from high school.

A Oh, before, no.

Q Other than working out in the [REDACTED] [REDACTED] weight room did you belong to any fitness clubs outside?

A I've always had--even when I was like third or fourth grade I had weights in my house and a bench and like a mini-home gym. Back then I did belong to a gym, from like--I don't remember the exact dates. It was right around after high school. It went out of business since. It was like [REDACTED] [REDACTED] I don't remember the name of it.

Q But while you were in high school you did not belong to any other clubs?

A No. We had a weight room there.

Q To your knowledge, in the [REDACTED] [REDACTED] weight room or amongst the football

1
2 players, did any of the football players use steroids?

3 A Not back then, no.

4 Q Did any of the wrestlers use steroids?

5 A No.

6 Q When you graduated from [REDACTED]

7 [REDACTED] did you go to college?

8 A Yes, I did.

9 Q Where did you go?

10 A [REDACTED]

11 Q When did you start at [REDACTED]

12 A August, two months after I graduated high
13 school, August of '83.

14 Q And when you started what was your goal
15 at [REDACTED] if you had one?

16 A I was--I started off I think in business
17 and accounting. I always wanted to be a police
18 officer since I was little, but I wanted to get my
19 degree in something else.

20 Q So your aim was to get a degree in
21 business and accounting?

22 A Yeah, because I kept taking--kind of
23 made my father angry, but I kept changing my major,
24 is what I was basically doing. So I have a lot of
25 extra credits, because actually I worked full time,

1
2 went to college full time at night. And I should
3 have finished easily in four years, but took like six
4 years by taking so many classes.

5 Q Okay. You mean you should have taken
6 four years?

7 A To get the degree, right, even though
8 I was working. I was dedicated. I went every night.
9 But I just kept changing my major.

10 Q Where you working after you graduated
11 from high school?

12 A Immediately after, a friend of mine, his
13 father owned a pool company, construction company,
14 and the day after I graduated high school I started
15 working there.

16 Q What was the name of the construction
17 company?

18 A It used to be called either [REDACTED]
19 or something. Now they've kind of evolved into
20 several different businesses. They own a few [REDACTED]
21 [REDACTED] outlet supply stores. And it's called
22 [REDACTED] But back then it was called
23 something else.

24 Q And what were you doing for [REDACTED]
25 [REDACTED]

1
2 A I basically did everything from--one of
3 the sons of the owner, the older son, was like in
4 charge of actually building the pools. I was like his
5 assistant. I will do whatever he will tell me,
6 whether it's from carrying the PVC, helping him put it
7 in before you pour the concrete, tying up the rebar
8 for the pool, and cleaning pools; basically everything.

9 Q Basically it was just construction work?

10 A Exactly.

11 Q Did you do construction work for [REDACTED]
12 [REDACTED] for the six years that it took you
13 to graduate with a bachelor's degree?

14 A No, from when I started until about--I
15 can't remember the exact date right now. Sometime in
16 '84 I left to work for another company, because I
17 needed more hours. Sometimes I'd work--usually I'd
18 work forty hours, sometimes fifty.

19 They started being slow, so I was working
20 like thirty hours a week. And I needed the money or--
21 I wasn't hurting for money. I was living at home.
22 But I wanted a full-time job.

23 Q So who did you go to work for?

24 A [REDACTED]

25 Q And what did you do for [REDACTED]

1
2 A I did everything there. I started off--
3 I was driving, doing deliveries for them.

4 Q Okay. And then what did you do?

5 A When I left I was like assistant manager
6 in the warehouse, where you'd have like large trucks
7 bringing paper in for the printing. We'd store them,
8 send mailings out. Actually a brand new warehouse in
9 the back.

10 Q Now, all the time you were working at
11 [REDACTED] you were always attending school at
12 [REDACTED] you said?

13 A I think [REDACTED] for a half a year or
14 a year. Then I finished there and started going to

15 [REDACTED]
16 Q And were you going to night school at
17 [REDACTED]

18 A That's correct.

19 Q When you enrolled did you have to declare
20 a major or did they let you wait a while before you had
21 to declare one?

22 A I don't recall. My major was criminal
23 justice. I think you have to get advised by the
24 advisors in that department. And I would take--I kept
25 taking business classes or school classes. And I ended

up getting a bachelor's in criminal justice, with a minor in psychology.

Q Why did you switch from [REDACTED] to [REDACTED]

A Well, I graduated [REDACTED] with an AA degree. So for my actual third year of a four-year degree I started at [REDACTED]

Q What was your AA degree in?

A I think it was just associate of arts degree, which is like the basic requirements to go and get a B.A.

Q Just like a general arts degree?

A It was general arts degree.

Q And then you were at [REDACTED] from when to when?

A From either '85 or '86 until--actually until '90, because I applied to be hired with [REDACTED] [REDACTED] They weren't hiring white males at the time, so it took a while for me to get hired. It took about two and a half years.

So by the time I finally got hired I needed one or two classes at [REDACTED] to graduate. So I had to go to the [REDACTED] You actually gain thirty-three credits at college level from [REDACTED] in the police department. So I had to quit going to

1
2 [REDACTED] to go to the [REDACTED] And once I got out
3 of the [REDACTED] I started back to finish my
4 degree at [REDACTED]

5 Q Okay. I'm going to have to have that
6 explained to me.

7 A Okay. Sorry about that.

8 Q Let me see if I can get the dates right
9 here. You started at [REDACTED] in '85 to '86.

10 A Right.

11 Q And when did you begin applying to [REDACTED]

12 [REDACTED]
13 A Okay. I applied in '85.

14 Q Okay.

15 A Or '84 or '85. And I finally got hired,
16 and I had to immediately go in the [REDACTED] They
17 hired me in--I believe it was November--something of
18 '87. And I worked three months before the [REDACTED]
19 They had me in headquarters, like in the records
20 section.

21 Q Now, at the time that they hired you in
22 November of '87 you were one credit shy of getting
23 your bachelor's?

24 A I was like a couple classes, two or three
25 classes.

Q Did you drop out of [REDACTED] at that point?

A No. I finished that semester. And January--let me see. The academy started in February. So I finished in December of that semester, and I started [REDACTED] that February.

I was employed by [REDACTED] police. The reason they do this, they don't want you to leave and go somewhere else. I was thinking about going to the [REDACTED] once I graduated. I was kind of frustrated. It was taking so long to hire me.

Q I can imagine. When you went to the [REDACTED] did [REDACTED] pay you as an employee?

A Right. They actually pay you the same salary as a new officer. Maybe it's slightly--five percent less. But they--I think it was like back then like twenty-three or four to be a records clerk while you're waiting to go in the [REDACTED] And basically the [REDACTED] you're just a college student.

Q You're a college student when you're at the [REDACTED] but do you get paid by [REDACTED]

A You get paid by [REDACTED] You're actually an employee. You're classified police trainee. You're employed by [REDACTED] and they're paying you a \$24,000 a year salary.

Q How long did the [REDACTED] last?

A It's actually the longest in the country.
It's nine months.

Q And you have thirty-three credit hours?

A You get thirty-three credit hours, which
I really couldn't use them, because they were at the
[REDACTED] level. They're on the record. They
couldn't go to any type of degree.

Q So that's why you had to go back to [REDACTED]
to finish up?

A Yes, because I was just at the very end.
I needed a couple more classes.

Q So after you finished up with the [REDACTED]
[REDACTED] and began work as a full-time police officer
you took night courses at [REDACTED] to finish up your
bachelor's?

A It was actually mornings. I would work
shifts. I was on the afternoon shift, so I would go
to [REDACTED] in the morning, which was real hard, because
I was always in court.

Q Okay. Did you participate in any intra-
scholastic athletics when you were at [REDACTED]

A No.

Q Did you participate in any intra-scholastic

activities or athletics when you were at [REDACTED]

A No.

Q Did you participate in any intramural athletics or activities at either [REDACTED]

A Not organized. We played, I mean, everything from basketball to football, you know, like on weekends, but nothing organized by the school.

Q Okay. How about at the [REDACTED]
Any kind of organized intramurals there?

A Yeah. We just had our--you know, running and like defensive tactics, which was wrestling. I did do karate at [REDACTED], I remember, but that was a couple of semesters, as a class. That was the only type of thing that I did at [REDACTED]

Q Was there a regimented weight training aspect of the [REDACTED] for physical training?

A Kind of, but not what it--not what it should be. Actually it's really too easy. It should be more like military style. You see some cops can't run from here to the corner. It's kind of embarrassing.

But we would run--back then we would run every day. But now they don't really do much. So back when I was there we run, I think, three times a week. And the other days we'd have an hour or two-hour

000033

1
2 block of defensive tactics, like wrestling and defen-
3 sive type.

4 [Theraupon, a lunch recess was taken,
5 after which the following proceedings were had:]

6 Q Let's go back on the record. Back from
7 lunch now.

8 Mr. [REDACTED] I hope you had a nice lunch.

9 A Thank you.

10 Q We were just finishing up--I think I had
11 just kind of clarified for myself how it was that you
12 became involved with the police department when you
13 first began with them, when you finished up at [REDACTED]

14 Now, we had also talked about your intra-
15 scholastic and intramural activities in sports when
16 you were at [REDACTED] and [REDACTED] And you basically
17 told us that there really weren't any organized sports
18 that you were participating in during that time. Did
19 you belong to any health clubs where you worked out
20 on a regular basis?

21 A After--no, just--by that time when I was
22 out of college--by that time I had a real nice home
23 gym.

24 Q Okay. So was that at your parents'
25 house?

1
2 A Yes, that was at my parents' house.

3 Q Was it essentially the same equipment
4 that you have now?

5 A No. I have a lot more equipment now.
6 But at my parents' house in addition to like weights
7 and stuff I had a boxing--like a speed bag set up,
8 and a heavy bag to do both boxing and karate.

9 Q Do you have that set up now in your house?

10 A No. It was at my parents' house. It was
11 telephone poles that were stuck in the ground with a
12 cross beam across, which after six years I finally
13 took them from my parents' house and brought them to
14 my house a couple years ago, but never dug the holes
15 to put them.

16 Q So at your parents' house you had a speed
17 bag and a heavy bag, you said?

18 A That's correct.

19 Q The speed bag is the little one that
20 hangs up real close to its support, and you hit it
21 real quickly? Is that right?

22 A That's correct.

23 Q And the heavy one is kind of like a big
24 body?

25 A Right.

Q What do you have in your gym now? We talked a little bit with your wife, but she seemed a little unclear on some of the machines.

A Yeah. I have--when you walk in I have a--it's a room about exactly the same size as this room or maybe slightly wider. And I believe it used to be--they had it as a [REDACTED] room at one time, it might have been. When I bought the house it was enclosed.

I have a treadmill, a pull-up bar, a rowing machine, a trampoline, which you can like shadow box on, a small. I have a step. I have dumbbells from like three pounds up to, I believe, sixty-five.

And then what my wife was talking about, it's a Biodine. It's a professional bench that you can attach things to the bench. And you use free-weights with it. It's not a machine.

Q So it's a Biodine bench?

A That's correct.

Q And you can put on like a leg curl attachment?

A It has a leg curl attachment, it has a preacher curl attachment. It has a lap pull-down bar,

1
2 where you can do both your back, your triceps. You
3 can do everything on it.

4 And it has a dip bar on the back of it.
5 I got some more. Let me see. What else do I got? I
6 have a stationary bicycle that's in our living room,
7 by the TV. It's not in the gym, but it's in the house.

8 Oh, I got a leg press machine, where you
9 lay down and do leg press, as well as a calf machine
10 to do calves.

11 Q Is the leg press and calf machine--is
12 that the same thing?

13 A No, they're separate machines.

14 Q On the leg press machine you lay down on
15 your back? And is it like a sled that you push
16 straight up and down?

17 A It's--it's not the sled type machine.
18 It's a smaller version, where you just lay on your
19 back, and there's a platform you place your feet and
20 press up and down. And it's in like cylinders, where
21 it just goes up and down.

22 Q So it's like two rods on either side and
23 cylinders that it just slides up and down the rods?

24 A Exactly. And you put the weight on top
25 of the cylinders, rods.

Q And how does the calf machine work?

A It's this sit-down kind. It has like lever type deal, where you put the weight on one end and your knees under. You sit on it and put your knees under some pads, and you put the balls of your feet on a platform, where you go up. You extend your calves on it, which works out the calves.

Q Okay. The pads on top of the knees prevent your knees from moving up, and then the toes press down on the lever weight on the other end?

A Right.

Q All right. Does sound like a pretty good home gym.

A I can't complain. The county has the multi-million-dollar gym for police officers, but I have everything I need at my house, and it's so much more convenient.

Q Do you ever work out at the county gym?

A I've been there before. We periodically have different times of training, and I have worked out at lunchtime there. But I have everything they have, just on a smaller scale.

Q Now, your wife mentioned that you keep a chart for your workouts. Was she correct on that?

1
2 A Right. What it is, it's a wall calendar,
3 and it has all twelve months, three across, I believe,
4 four down. And just as a sense of motivation, just to
5 keep track, I'll write the first line the actual
6 weight workout and the middle line what aerobics I
7 did that day, and then the bottom line whether I did
8 abdominals or not.

9 Q What are the abdominal exercises that
10 you do?

11 A I have also a Roman chair in the gym to
12 do abs, and I'll do different sit-ups or crunches.

13 Q A Roman chair?

14 A I knew I was forgetting something.

15 Q When you say you do your weight work-out
16 what exactly--what weights do you record on there on
17 a daily basis?

18 A What I do is usually I'll do one day
19 chest, the next day back, the third day arms, and the
20 fourth day legs.

21 Q And then the cycle again?

22 A And the fifth day usually it depends.
23 I'll either do nothing except for aerobics or I'll
24 start over. It just depends. I'll go by feel.

25 Q Okay. How far back do you have your

1
2 wall calendar for?

3 A Just '94 and '95, the actual big wall
4 calendar.

5 Q So you have all of 1994 and 1995?

6 A That's correct.

7 Q Okay. When we were talking about the
8 wall calendar your wife also mentioned a food diary.

9 A Right.

10 Q Is that correct? You do keep a food
11 diary?

12 A Yeah. It's just a convenient way to see
13 where you've been eating like bad stuff. And now
14 I'm in the actual habit. If I don't do it I feel like
15 I'm not doing something right, so I always write down.

16 Q Do you record everything that you intake
17 on that day?

18 A Yeah.

19 Q Even cups of coffee, things like that?

20 A I don't think I put diet Cokes or like
21 coffee, things that don't have any calories. But I
22 will put like any type of food.

23 Q You drink your coffee black?

24 A Usually I just put like a dab of skim milk
25 in it.

000040

Q Do you ever drink Cuban coffee?

A Once in a while, not much.

Q How far back do your food diaries go?

A Sometime '93, I believe, the beginning of '93.

Q Is that what you call them, food diaries?

A Yeah, I guess. I don't know.

Q Have you provided your attorneys with those diaries?

A No.

Q Do you have them at your house?

A Yeah.

Q Do you also keep any record of dietary supplements or vitamin supplements that you take?

A No.

Q That's not included in the food diaries?

A No.

Q Before you got married to your wife did you have any workout partners?

A Yeah, I've had since and before; not consistent because of my schedule. I've had different-- like [REDACTED] the one she said, who was the best man at my wedding, he's worked out with me all the time.

Q Is that [REDACTED]

A [REDACTED], till I think he started working days a week back, like--time does fly. I think after the hurricane he started working days. I've always worked afternoons, so I always like to work out in the morning. And sometimes I work out after work. It depends on--I have a lot of court.

He was probably the most consistent workout partner. And [REDACTED] worked out with me for--like before the time that I had the stroke he was the one that was working out with me mostly.

Q Anybody else besides [REDACTED]

A I've had a lot of people come work out, like co-workers. They'll see my home gym, then come work out once or twice. But those were the only people that were consistent.

Q Did your wife say that [REDACTED] and [REDACTED] were high school friends?

A No. [REDACTED] has been a friend since high school. [REDACTED], I met him through the police department, on the police department.

Q Did [REDACTED] play football as well?

A I think he played like one year. He

1
2 didn't play our senior year. He's been like a child-
3 hood friend since elementary school.

4 Q And [REDACTED] was your best man?

5 A That's correct.

6 Q How is it that you first learned of
7 Ma Huang?

8 A Back in like college, because I was
9 always drinking a lot of coffee. Some health nut in
10 my class said, "You shouldn't drink so much coffee."
11 I think I was taking like Vivarin or No Doz also,
12 because I was working full time. I was working more
13 than full time, sometimes nine or ten hours a day.

14 I'd go home, take a shower and go
15 straight to class, like at 6:15 or 6:00--whatever the
16 first class, somewhere between 6:00 and 7:00. So she
17 said, "Those herbs are the same as caffeine, but no
18 harmful side effects."

19 So it was like a dropper, like sub-
20 lingual. And I took a couple drops one time, but
21 never really--I couldn't tell a real big difference.
22 That's how I heard about it.

23 After that I didn't see it for a while,
24 until the last couple of years a lot of body building
25 companies was marketing it as a supplement, like in

different ripped fuel or different--it's a therapeutic herb that supposedly increases your metabolism and gives you energy. The theory, I guess, it would help you burn fat or keep your muscle.

Q Now, you said the first time you heard about it was--

A Was back in like the '80s. I really didn't take it back then.

Q It was when you were in high school? I'm sorry, college.

A In college, at [REDACTED]

Q Do you remember what class it was in?

A No. It was some type of psychology course, but I don't recall the exact class.

Q Was it the same course that your wife was taking with you?

A Yeah. She probably was in that. That's where I met her. We had most of the same psychology courses.

Q Was it a man or a woman who talked to you about it?

A It was a lady.

Q Was it a large class or a small class?

A It was an average size, which I would

say for [REDACTED] back then anywhere from thirty to fifty people. I don't recall exactly.

Q Was this particular woman about your age or significantly older or significantly younger?

A She was older. She was probably in her thirties back then. I was like twenty-one or twenty-two at the most.

Q Did she look Anglo, Hispanic, African-American?

A She was Anglo, I remember, blonde hair. I don't recall her name.

Q Did she actually give you the Ma Huang or did she just say you ought to try it?

A She had some that she would take sub-lingual. So she said, "Take some of this instead of drinking so much coffee." I would drink Cuban coffee. I'd take Vivarin to stay awake or just to stay alert if it's a boring subject. I don't know how awake you can be after working all day. You can start to lose it. That's where I heard about it from.

Q You've used the term sub-lingual a couple of times. What does that mean?

A You take it in drops. I guess that's the term, meaning, I guess, under your tongue. It's like

1
2 sub-lingual drops. I don't know what's the difference
3 between why you take it under your tongue or over your
4 tongue.

5 But it's like they sell them in drops.
6 That's what she had. It was a liquid dropper form,
7 where you take a couple of drops.

8 Q It came in a bottle in a liquid form?

9 A Right.

10 Q You take an eye dropper--

11 A Right.

12 Q --and put a couple of drops under your
13 tongue?

14 A Right.

15 Q Do you remember what the label was on the
16 bottle that she had?

17 A No. I remember it saying Ma Huang, be-
18 cause it was a strange word. But I don't recall the
19 brand name.

20 Q How many times did you take it sub-
21 lingually?

22 A I think the only time I ever took it was
23 she offered me some of hers to take. And I didn't
24 really tell--I couldn't tell if it had any effect at
25 all.

000046

Q How many drops did you put under your tongue?

A I don't recall.

Q But to you it didn't seem to have any effect on you whatsoever?

A No, not--I think in that--I don't know the potency, if it was diluted or not. But it wasn't--you'd have to probably take a whole few drops to--

Q So then you said that later on a lot of the body building companies started promoting it as a theragenic?

A See, all the theragenic drugs that were pretty expensive would have Ma Huang as one of the ingredients. And then I saw it at [REDACTED] advertised through Ultimate Nutrition, which is like the top of the line in supplements, the Ma Huang, and that's when I started taking it.

Q So you never took it in the form of ripped fuel?

A No, I never took none of those.

Q The first time that you ever started taking it was as the tablet Ma Huang?

A In the tablet form. That was the first time--the first time I ever took it was the drops,

but that was just one time. Then I started taking it in the tablet or tablet form.

Q When did you first buy some Ma Huang in tablet form?

A I think about '93, if I'm not mistaken.

Q And where did you buy it?

A At [REDACTED]

Q Which [REDACTED]

A The--it's [REDACTED]

[REDACTED] It's the [REDACTED]

Q How many tablets were in the bottle that you first purchased in 1993?

A I don't know the amount. I wrote it down, I think, in interrogatories, I believe, but I'm not sure. Fifty or a hundred. It's a decent size bottle.

Q It says, "Contains one hundred tablets."

A Yeah.

Q Now, when you bought it why did you choose that particular product?

A Because Ultimate Nutrition's known as a better--that brand or that particular--what do you mean in the question, the brand or the actual Ma Huang?

Q No. Why did you choose that brand? Why did you choose that particular product that said

1
2 Ma Huang, that was an Ultimate Nutrition product?

3 A Because the Ma Huang--I wanted to get the
4 energy and like raise my metabolism.

5 Q So you chose the Ma Huang to get the
6 energy and raise your metabolism?

7 A Right. Exactly.

8 Q Why did you buy Ultimate Nutrition
9 Product's Ma Huang as opposed to Ripped Fuel or some
10 other?

11 A Because I think that was the only brand.
12 Plus Ultimate Nutrition is known as a better brand
13 that sold it by itself. A lot of the others, like
14 those Ripped Fuels, they mix them with all kinds of
15 different things.

16 Q Okay.

17 A And like in my opinion most--after
18 learning the hard way, most supplements are a waste
19 of money.

20 Q They don't deliver what they say they're
21 going to deliver?

22 A Exactly. If you eat right--the only
23 thing I found to actually do anything was the Ma Huang.

24 Q Now, you've told us that initially this
25 lady in your school class told you about Ma Huang,

1
2 gave you a few drops. It didn't do anything for you.
3 And that in the early '90s, late '80s, a lot of body
4 building companies started touting products that
5 included Ma Huang.

6 Did you just take it upon yourself to
7 try the Ma Huang and see what it would do for you
8 again or did somebody say to you "Hey, you really
9 ought to check out this Ma Huang"?

10 A Oh, basically I kept seeing Ma Huang in
11 different things. And I said, "Let me try this."
12 And I just tried it in pure form.

13 Q Had you seen any advertisement for
14 UNP's Ma Huang, Ultimate Nutrition Products Ma Huang?

15 A No, not for--I saw it in different--like
16 I think it's Twin Lab and different--in muscle and
17 fitness magazines, different brands. But I've never
18 seen it pure, just plain Ma Huang. And they didn't
19 sell the drops. That's how--I didn't know it came
20 in tablets. I thought it was--like just came in
21 strictly--

22 Q Liquid form?

23 A Liquid form, like a tea. I think it was
24 like a Chinese tea. So at [REDACTED] that was the only brand
25 that I saw that was solely Ma Huang, that says it

000050

right across the label.

Q I appreciate your answer, but initially the question was, I think--I think the question I had asked was whether you had seen in the ads for Ultimate Nutrition Products Ma Huang?

A Not till after I had the stroke, not before.

Q Okay.

A Or I may have seen them, but I don't recall seeing them until after. Then I was--after I was looking.

Q Now, how did you know about Ultimate Nutrition Products and their reputation? Had you taken other products made by Ultimate Nutrition?

A Usually I would take the generic, like multi vitamins, from [REDACTED] because you buy one you get the second one half price. And I had a [REDACTED] from [REDACTED], where you'd get like twenty percent off or a percentage off the first Wednesday of every month, beginning of the month.

So usually I would take the [REDACTED] brand products. But they didn't have any Ma Huang. And the guy was saying that Ultimate Nutrition--the guy at the [REDACTED]-is an excellent product. They're an

1
2 excellent brand.

3 Q So the guy at [REDACTED] recommended Ultimate
4 to you?

5 A Yeah.

6 Q The ads that you saw, you said you don't
7 recall seeing any before the stroke, but you recall
8 seeing some afterwards.

9 A Yeah, after I saw. And what was strange
10 was all the products of Ultimate Nutrition were there,
11 but Ma Huang wasn't. This was after I had the stroke.
12 And I sent it to--I took it out of the magazine and
13 sent it to my attorney.

14 Q What magazine did you see that ad in?

15 A I think both Flex and Muscle and Fitness
16 magazines, which I think is the same people make--
17 publish the magazines. It's the Weeder Company.

18 Q So it's Flex magazine and Muscle and
19 Fitness?

20 A That's correct.

21 Q Now, you said the ads showed pictures
22 of all the UNP products but not Ma Huang.

23 A That's correct.

24 Q So it was just like a full page picture?

25 A Full page.

Q Of all the UNP products?

A Right.

Q Now, your wife had mentioned something about an article that she had read about different herbs in one of the magazines, that mentioned Ma Huang. Do you know what article she was talking about?

A I think she meant--because I asked her. She meant after, not before, because since I had the stroke it's been like all kinds of newspaper articles. And some of them were on me, but most of them--even [REDACTED] their own publication, they talk about some other herbs as a safe alternative to Ma Huang, without harmful side effects.

And that's like in the [REDACTED] magazine they'll send you when you get the [REDACTED] from [REDACTED]. But it's been in like the same--right after I had the stroke it started being publicized.

Like somewhere in [REDACTED] people have had strokes from it. I think [REDACTED] the soccer player from [REDACTED], they had an article how he got kicked out of the World Cup from using it. It's banned in the Olympics, the NCAA, as well as the World Cup.

Q You say [REDACTED] sends out a magazine?

A It's--I don't recall what the name of it

1
2 is. But my membership expired. I never renewed it.
3 So I no longer received it. But it was like a monthly
4 publication where they would, I guess, you know, sell
5 different or advertise for different type products
6 and just have articles.

7 Like since I had the stroke that's when--
8 maybe I wasn't noticing things before, but that's when
9 a lot of things about Ma Huang came out, either co-
10 incidentally or I wasn't looking before.

11 Q In the [REDACTED] monthly newsletter--first of
12 all--strike that.

13 What's the name of the club that you're
14 a member of to get that [REDACTED] Just the [REDACTED]
15 [REDACTED]

16 A It's just the [REDACTED] I buy all the time a
17 lot of Vitamin C and multi-vitamins. And my wife would
18 buy like aloe vera gel or aloe vera juice and different
19 things. And I was going there a lot.

20 And if you--first if you sign up I think
21 it's like--there's a small fee. I can't remember what
22 it was. It's \$10. You get 20 percent off on that
23 purchase. And actually if you buy fifty, \$100 worth
24 of stuff a month you're going to save a lot of money,
25 because the first Wednesday of each month you can get

20 percent off.

Q What is the herb that [REDACTED] recommended as a substitute for Ma Huang?

A I think it's Guarana. I can't recall exactly. It was one or the other. There's a bunch of these herbs, that some of them have caffeine.

I'm almost an expert now because of all the research I've done after. But they have caffeine and different type of--they don't have Efedrin. That's what's really bad. They have caffeine. They give you a stimulant effect. I think Guarana or Kola. Those are the only things I know. It's wasn't Ginseng.

Q Guarana or Kola?

A I believe so.

Q When you first brought the Ma Huang from [REDACTED] UNP's Ma Huang, what did you do with it?

A I used it before I worked out. I'd take tablets. The label said--I can't recall if it was two or three. Where it said, "Take so many right before you work out," that's what I did.

Q Did you read the label?

A Yeah.

Q Did you read the recommended dosage?

A Right.

Q Did you follow the recommended dosage?

A Right.

Q So if the recommended dosage said, "Take one tablet before you work out," you would have only taken one tablet?

A That's correct.

Q Did you ever take more than one tablet before working out?

A I think it was--I don't think it was just one. I think it was two or three it said on the actual label. If it said take two or three I'd always take more, because I'm a lot bigger than a normal person.

Q Well, let me make sure I understand your testimony. If it said that the recommended dosage was one tablet, is it your testimony that because you're a bigger person you would have taken more than one?

Or if it said recommended dosage two or three, that you would have taken more than two or three, because you're a bigger person?

MR. [REDACTED] Object to the form.

A No. I'd have taken--if it said two or three, given you a choice, I would have taken the

greater amount.

Q You would have taken three?

MR. [REDACTED] Object to the form.

A Right.

Q If it said recommended dosage one or two you would have taken two?

MR. [REDACTED] Object to the form.

A Right, being that the average size person probably is 170 pounds, and--

Q In other words, if it gave you a range--

A If it gave me a range I would have taken the higher--

MR. [REDACTED] Object to the form.

THE WITNESS: --range.

BY [REDACTED]

Q Because you're a heavier person?

A Exactly.

MR. [REDACTED] I'll tell you what. Why don't we mark this as Defendant Exhibit 1 for identification.

[Thereupon, the bottle referred to was marked "Defendant Exhibit 1 for identification," and was retained by counsel.]

Q Mr. [REDACTED] we've now had marked as

1
2 Defendant Exhibit 1 for identification a bottle of
3 tablets. Let me ask you to take a look at it. Your
4 attorney's had a chance to take a look at it. First
5 of all, do you recognize that?

6 A It looks very similar to the one I was
7 taking.

8 Q Okay. Do you see on the label where it
9 has a suggested dosage or a suggested use?

10 A Yes, I do.

11 Q Okay. If you could just read that for
12 me. What does that say?

13 MR. [REDACTED]: I'll object to him
14 reading the label.

15 A It says, "Take one or two tablets one
16 hour before training."

17 Q Do you recall if that's the same suggested
18 use that was on the bottle that you purchased?

19 A I'm pretty sure it is. I remember it was
20 more than one.

21 Q Who has the bottle that you were using?

22 A The law office of [REDACTED]

23 Q So since you've already told us since you
24 were a bigger than average man, which you no doubt are,
25 your practice would be to take the higher range of--or

1
2 the higher end of the range for any medication or
3 vitamins or dietary supplements, correct?

4 A That's correct.

5 Q Since this one says one or two you would
6 have taken two tablets before working out. Is that
7 correct?

8 A That's correct.

9 Q Would you ever have taken more than two
10 tablets?

11 A No.

12 Q Okay. This one is sealed. This one is
13 sealed too. I'm going to go ahead and break the seal,
14 because these were just provided to me as samples.

15 I want to see if this is the same tablet.
16 We can't mark these, but does that appear to be the
17 exact tablet?

18 A It appears. I kind of remember them to
19 be darker, but I don't--that's the same size. I
20 thought they were a little darker.

21 Q It's the same size and shape?

22 A That's correct.

23 Q And you can pick it up if you want. Does
24 it appear to be the same type of texture?

25 A It--it appears to be. I'm so paranoid

now. I don't even take cold medication if I--

Q Okay. Now, you worked out once a day, correct?

A It depends. What happened, some days I would like in the morning do aerobics, because I go to court a lot. I'm a sergeant now, where I don't go to court as frequently as I did when I was an officer and corporal, because the sergeant capacity is basically a supervisor.

So during '93, '94--I made sergeant in like '94, in July of '94, actually a couple of weeks before I had the stroke. I still have a lot of court, and I go to court, come home, work out real quick.

I didn't have time to do both workouts, and sometimes I didn't even have time to work out. I'd work out after work. So it depended. Some days one time, some days two.

Q When you did two workouts in a day would you take two tablets before each workout?

A Yeah, I would.

Q So you would take a total of four tablets on those days?

A Some days.

Q Okay. On your wall chart did you record

000060

1
2 when you would work out twice in one day?

3 A Only thing I recorded differently then--
4 because I just write if I work out. Some days I would
5 work out three times. I'd do aerobics twice, and I'd
6 put a times two next to it, next to the aerobics, just
7 to show I did aerobics twice that day.

8 Some days I'd go to court, and I'll just
9 wake up, work out and come in. And say I ate some-
10 thing late, I would ride my stationary bike at night,
11 like watching the news or something. I'd write down
12 on the calendar with a times two.

13 And I really didn't have that big--three
14 workouts in a day, I really didn't have that much
15 time. That wasn't really very often.

16 Q When you had three workouts in a day
17 would you take two for each workout?

18 A Well, I would take the--what I used to do
19 is I'd work out--I'll do aerobics first. I'd take the
20 tablets, do aerobics, and then immediately do weights
21 right after. So I wouldn't take any more.

22 But later on if I did aerobics again,
23 depending on what I ate or all depending on how I felt,
24 then I'll take it again. But I wouldn't take it three
25 times a day.

000061

Q The first time that you took it, was that the day you bought it?

A Yeah, that was the first time, because I remember I'd always go to [REDACTED] early, because I'd get--I don't remember the exact day I went, but the days I'd go buy stuff, being that it was like twenty-five percent off I'd go early in the morning, like first one there. You'd get a mob of people throughout the day, especially around lunchtime, whatever. So I probably most likely bought it early in the morning and worked out right after.

Q Did you notice any effect on you when you took your two tablets?

A I think I had more energy, and you can breathe better, which I didn't notice at the time. One of the reasons I've learned subsequently is Efedrin.

Q I appreciate that you want to volunteer, and we may get around to this information. But for right now I just want to--and I understand what you're about to relate was things that you learned. But right now I just want to know what effect it had on you that first occasion.

A Okay.

Q So when you first took it you noticed an

effect?

A Right.

Q That effect was that you felt that you had more energy and you could breathe better?

A Right.

Q How long did that last?

A I don't recall how long the actual--if the actual feeling better was from strictly the Ma Huang or--because whenever I work out I feel better personally, as most people do. So I couldn't tell you.

I could tell the workouts were easier. I got more oxygen because--I didn't know why at the time, but--I couldn't tell if it was an effect of the product or just working out I felt better.

Q Okay. Did the feeling seem to last for a period of time after the workout?

A I don't recall exactly, because what it was, some days you just don't like working out and just to get like energy it may have, by taking it before. It may even have a placebo effect. But psychologically you feel that you have more energy.

But I'd have more energy when I worked out, especially days when I'm tired, I work late,

1
2 I was in court all day, et cetera.

3 Q At any time after you started taking the
4 Ma Huang did you notice any other side effects or
5 effects of the Ma Huang other than the feeling of
6 more energy and ability to breathe easier or better?

7 A No. I've always been in perfect health.

8 Q Did you ever notice any feeling of
9 anxiety after taking Ma Huang?

10 A Not really.

11 Q Let me ask you this. Did you ever take
12 so much caffeine or Vivarin or No-Doz or drink
13 caffeine that you got what I call a caffeine buzz,
14 kind of a very tight feeling, a very unpleasant
15 feeling from taking so much caffeine?

16 A Not that I recall, not from caffeine.

17 MR. [REDACTED] Off the record.

18 [Informal discussion off the record.]

19 Q So I think I was asking you if on the
20 Ma Huang you'd ever felt any anxiety, and you said
21 not from the Ma Huang.

22 A Not that I recall.

23 Q Did you ever feel any nausea from taking
24 the Ma Huang?

25 A No nausea, no.

000064

1
2 Q Did you ever feel that your heartbeat
3 sped up or slowed down from the Ma Huang?

4 A See, every time I took it I would take
5 it in conjunction with working out. And of course
6 your heart rate goes up.

7 Q When you do your workout?

8 A Right.

9 Q It's difficult to say whether or not--

10 A It's difficult to say how much. I'm
11 sure it did, because it has Efedrin in it, but how
12 much I really don't know.

13 Q You're saying that you're sure it did
14 because of your knowledge post-stroke that Ma Huang
15 has Efedrin in it, correct?

16 A Exactly.

17 Q But you really don't know if at the time
18 you were taking it it had the effect of speeding up
19 your heart?

20 A I know it had an effect. It made me feel
21 better working out, but the exact--

22 Q Physiological affect--

23 A Right. I couldn't tell you.

24 Q Now, did you take Ma Huang on a daily
25 basis from the time that you first purchased it until

000065

the time you had your stroke?

A Just about. I think I may have run out and probably waited for the next week or the next time they had a sale, but pretty much on a daily basis.

Q Here's what I'm trying to reconcile. If we've got a hundred tablets in a bottle and if you're taking two a day at a minimum, one workout a day, that's going to get us to fifty days. One bottle is going to take you to fifty days. So then that's only about a month and a half.

A Right.

Q If you bought it in '93 and your stroke happened in July we've got to account for about--

A I purchased more than one bottle. I went through a couple of them. The bottle that the law office has is the last--the last one I purchased, the last one I was using when I had the stroke. But I went through a couple bottles of Ma Huang.

Q That's what I want to clarify.

A Exactly how many I'm not sure, but I'd almost go to [REDACTED] on a--I'd go for sure on a monthly basis.

Q By the way, have you been back to [REDACTED]

000066

1
2 recently?

3 A Not--I've been in different [REDACTED] just
4 out of curiosity, to see if they sell that type, and
5 they don't. And I've--I think I bought a multi-
6 vitamin back in--sometime around Christmas. That's
7 the last time I purchased anything from them.

8 Q When you made your purchases at [REDACTED]
9 were they credit card or cash?

10 A Most were probably credit card, some
11 cash. It depends on how much--if I bought a whole
12 bunch of stuff, more than \$100, I'd use a credit card.
13 If it was like less than \$100, like fifty bucks, I'd
14 probably use cash.

15 Q Since you're a member of this club did
16 it always go under your club number?

17 A Yeah, when I joined, because I don't
18 think--my original purchases of Ma Huang I wasn't
19 under the club. I have the card at home. I believe
20 it expired in March of '95 or April of '95. So I
21 bought it March--it was like a year before, either
22 March or April of '94 is when I finally joined the
23 actual [REDACTED] But I've been going to
24 [REDACTED] for years.

25 Q Okay. You say in your answers to

000067

1
2 interrogatories--these are the interrogatories that
3 were propounded to you by [REDACTED]
4 [REDACTED]

5 In Interrogatory No. 16 they say, "Please
6 describe in detail the history of your Ma Huang con-
7 sumption, including the reasons for consuming
8 Ma Huang, the identity of any persons who recom-
9 mended or prescribed it, the inclusive dates of con-
10 sumption, the amount consumed, the form consumed."
11 It goes on. It's a paragraph.

12 And I'm going to let you read it. And
13 you can read your entire answer as well. The parti-
14 cular part I'm interested in is the sentence about
15 the third or fourth sentence, "From November 1993
16 through July 1994 I consumed approximately four tablets,
17 500 milligrams each, of Ma Huang manufactured by
18 Ultimate Nutrition."

19 Go ahead now. Read No. 16. And read
20 your answer, if you would, please. And I'm going to
21 ask you some questions about that.

22 A You want me to read the whole answer or
23 just that line?

24 Q You can read the whole answer. I don't
25 want it to be taken out of context.

1
2 A "I learned of Ma Huang in college--"

3 Q Read it to yourself. Then I'm going to
4 ask you a question.

5 A Okay.

6 Q Now, did there come a time when you in-
7 creased--you know in your answer where you say that
8 you took four tablets Ma Huang, 500 milligrams each,
9 it does not say on a daily basis. But I would assume
10 that that answer does not mean that you only took
11 four tablets between 1993 and July of 1994, correct?

12 A I just said approximately four tablets.
13 I was giving a more or less, because some days I worked
14 out more. At least a couple times a week due to court
15 and other off-duty jobs or what have you I'd work out
16 twice. I'd have to divide it up. But it wasn't four
17 tablets on a daily basis. It was approximately four
18 tablets.

19 Q Was there ever a day where you took more
20 than four tablets?

21 A No, I doubt it, not that I recall.

22 Q Did there come a time when you actually
23 increased your daily consumption or per workout con-
24 sumption to two or more?

25 A No.

000069

Q Okay. Thanks. Do you have your credit card receipts for your purchases of Ma Huang from

A No. I tried to find them. I don't have them.

Q What type of a credit card have you used, would you have used?

A Either [REDACTED] or [REDACTED] one of the three. That's if I used a credit card. I may have--I think--I can't recall now how much that cost, but I don't think it was more than fifty bucks for a small bottle.

If I bought it alone--because I used to buy like Vitamin C, multi-vitamins--it depends on how much I bought, whether I put it on.

Q One of these bottles cost \$50?

A Forty or fifty.

Q After you first purchased Ma Huang did you do any research at that time, with respect to Ma Huang?

A No.

Q Did you do any research at that time, with respect to Ma Huang?

A No.

1
2 Q Did you do any research on Ma Huang
3 before you purchased it for the first time?

4 A No.

5 Q When was the first time that you did any
6 research on Ma Huang?

7 A After I learned that it caused me to have
8 a stroke. That's when it kind of--

9 Q All right. Let's talk about the stroke.
10 Let's first talk about the day before the stroke.
11 What kind of workout did you do on the day before the
12 stroke?

13 A I have it written down, but I don't
14 recall exactly. I did--I know I divided them up,
15 because I was working. I think I had court that day
16 or something came up. But I worked out the night
17 before I had the stroke, about elevenish.

18 Q Had you done two workouts on the day
19 before?

20 A Yeah.

21 Q So you had taken a total of four Ma Huang
22 the day before?

23 A Most likely, if that many; probably four.

24 Q Okay. Then you say you worked out around
25 11 o'clock?

1
2 A Yeah. I was a new sergeant, and I trans-
3 ferred from [REDACTED] to [REDACTED] And I had
4 been there maybe two or three weeks, and so I had
5 filled in when somebody left or got promoted or trans-
6 ferred.

7 So I had a shift. It was like 3:00 to
8 11:00. It was 3:00 to 11:00. So I got off like at
9 11:00.

10 Q And when would you have finished your
11 workout?

12 A Probably--I recall it was a half hour
13 riding a bicycle. I never do less than a half hour.
14 Sometimes I do an hour or forty-five minutes.

15 Q And then would you have gone straight to
16 bed?

17 A No. I never go straight to bed. I
18 probably stayed up watching TV for a while, because
19 the following day was my day off.

20 Q And you needed to cool down from your
21 workout?

22 A I needed to cool down. I took a shower.
23 My luck I have a stroke on my day off.

24 Q Do you know what time you went to bed?

25 A No, I don't recall exactly.

000072

1
2 Q Did you have the alarm set on the
3 following day?

4 A I don't recall if I had the alarm set.
5 But we wanted to go to the beach. My wife's a
6 teacher, and she wasn't working. She takes the
7 summers off.

8 She gets her checks like pro rated over
9 the summer, so she gets paid, but she's not working.
10 So it was my day off, and I don't think I had the
11 alarm on.

12 Q Okay. Well, when you woke up--when was
13 the first time you recognized or realized that some-
14 thing was wrong?

15 A Okay. I woke up, and it was the weirdest
16 thing. It was like if I was in a daze. I was awake,
17 but I couldn't really move. And so I get out of bed
18 and I fall right next to the bed.

19 And [REDACTED] sees me and helps me get back
20 in bed. It was the weirdest thing. I thought I
21 slept on my arm or something. The blood left. It
22 was just--you know, you sit wrong, your leg may go to
23 sleep or something.

24 I haven't done it since a little kid,
25 but I thought maybe all the blood just left for a

000073

1
2 while. So I kind of lay there, and I'm like in a
3 daze. And I tried to jump up. I get pissed off,
4 so I jumped up, and it went away. I was fine.

5 So I went to the kitchen to make coffee.
6 And I'm in the kitchen. I start getting dizzy. And,
7 boom, I fell right next to the--we have a couch.
8 There's a kitchen, and a door that goes to the living
9 room. There's a couch. And my whole left side was
10 paralyzed.

11 I hit the floor tile. And my house ain't
12 real long. It's kind of long. The bedrooms are in
13 the back. So I started calling for [REDACTED] and my
14 mouth wouldn't move on the left side. And she came.
15 And I guess she told me later my face--my eye was
16 like hanging, my lip was hanging.

17 My whole left side of the face you can
18 tell, right down the middle--the left side was drooping.
19 And, like she said, her father, he had something--I
20 don't think he had a stroke. He had, I think, Bell's
21 Palsy, is what he had, where they can see--so she
22 thought I was paralyzed. So she called--I didn't know
23 till now she called my father.

24 She called rescue, but she said she
25 called my father. And within--and I started going

1
2 into shock. And knowing--not that I'm a paramedic,
3 but just being a first responder, you can die from
4 shock. So I kind of started freaking out.

5 And rescue got there within--it seemed
6 like seconds they were right there. By this time I
7 could move a little. I couldn't walk, but I could
8 move, move my hand. It scared the hell out of me.
9 So rescue came, put an IV, and immediately took me
10 to [REDACTED]

11 Q Okay. Now, you were admitted to [REDACTED]
12 [REDACTED]

13 A That's correct.

14 Q And you came under the care of a physician
15 there?

16 A I don't recall his name, but it's--I got
17 his bill. But he was like the attending physician in
18 the emergency room.

19 Q All right.

20 A And there was a couple of nurses. But he
21 was just like, I guess, a general--I don't know what
22 his title--probably general practitioner type doctor.
23 He wasn't a neurologist. They had to call a neurolo-
24 gist in on call.

25 Q Okay. Who told you that Ma Huang had

caused your stroke?

A Later on when I left the hospital the neurologist was like "You're in perfect health. You have zero risk factors; low blood pressure, you have super low cholesterol. Somebody your age, only one out of a hundred people may have a stroke, and that would be from either drugs or from an injury, and you have neither in your system. You have no drugs in your system--which they tested--and you didn't have an injury."

So he couldn't tell me why I had a stroke. And I was telling him it had to be from something I was taking. So I wrote out a list of vitamins. Like I wrote everything that was in the [REDACTED] vitamins and the Ma Huang, the Ginseng, and I gave it to my neurologist.

And my mom sent it to my uncle, her brother, who's a biochemist for [REDACTED]. He had some doctor in pharmacology check everything, and he found research that Efedrin in Ma Huang causes strokes.

And then from there I think my neurologist's biochemist or whoever he sent it to found out the same thing. And all of a sudden that's when all

000076

these articles came out and research came out and like warnings came out.

Q Okay. Your mother sent it to her brother?

A Yeah. She sent a list of what I was taking.

Q To [REDACTED]

A Exactly.

Q And he's a biochemist?

A He's a biochemist.

Q For [REDACTED]

A I believe it's a biochemist. He has a doctorate in something. He's not a medical doctor. He's the head of the lab, I believe, for [REDACTED]

MR. [REDACTED] Excuse me.

Is [REDACTED]

THE WITNESS: [REDACTED]

BY MR. [REDACTED]

Q He gave it to a pharmacologist?

A He gave it to a doctor in a pharmacy, say, "Can you run these--" I don't know how they did it; just researchwise, to find out what side effects these vitamins and these things have. And that's the only thing that had any bad side effect.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Was that a company employee at [REDACTED]

A I'd assume so. I don't know who it was.

Q You don't know the name of the pharmacologist?

A No.

Q What are Palmetto berries?

A It's another like herb. It's supposed to be an energizer. What active ingredients it has in it--I'm not sure if it's caffeine or--

Q Had you been taking Palmetto berries the day before the strokes?

A Yeah. I took some that week or the day before, in the morning, I think.

Q The day before, in the morning?

A I'm not sure if it was morning, night, probably around lunchtime.

Q Where did you get the Palmetto berries?

A [REDACTED] Just about everything I've ever taken I've bought from [REDACTED]

Q Was it a product called Palmetto Berries?

A Saw Palmetto Berries. I believe it's like the Saw Palmetto they have in the Everglades.

Q And were they actually little berries or

1
2 were they ground up into tablet form?

3 A They were tablets, like those.

4 Q Who were they made by?

5 A I don't recall that. I think I have it
6 written down somewhere. It was a brand name, but it
7 wasn't Ultimate Nutrition and it wasn't [REDACTED] generic
8 brand. It was--I don't know if it was Twin Lab or
9 one of those. It was some brand of herbs.

10 Q Do you still have that product?

11 A I think I still have it.

12 Q Have you given it to your attorneys?

13 A No.

14 Q How long had you been taking Saw Palmetto
15 Berries?

16 A Exactly I don't recall.

17 Q Had you been taking it for more than a
18 week?

19 A I think a couple weeks, not real long.

0 Q Did you find that it worked for you, that
it gave you a stimulant effect or increased your
energy?

A I really couldn't tell.

Q Why did you start taking Saw Palmetto
Berries?

000079

1
2 A For energy. And just like Ginseng, Saw
3 Palmetto Berries are known as just overall boost up
4 your immune system and energy.

5 Q Where did you hear that from?

6 A I've read it in different publications.

7 Q I guess what I'm getting at is--I mean,
8 what made you, when you went into [REDACTED] whenever it
9 was, purchase Saw Palmetto Berries for the first time?

10 A Okay. I read it somewhere, in either--
11 it was either [REDACTED] magazine or one of the muscle and
12 fitness magazines.

13 Q So you read something that said Saw
14 Palmetto Berries are good for your immune system or
15 for energy or whatever, and so you said, "Oh, I'll
16 give it a try," and went and bought some?

17 A Right, because I would take Ginseng on
18 and off. I take a lot of Vitamin C or used to. I
19 still take it, because being a police officer you're
20 around a lot of sick people. And I rarely ever got
21 sick. And it might have had to do with Vitamin C and
22 being in good health, but--

23 Q Did you ever get Muscle Mag?

24 A I didn't get a subscription, but I bought
25 it. I bought it like from [REDACTED] the newsstand

periodically, but I never really got a subscription to it.

Q Robert Kennedy's Muscle Mag International. Have you ever seen this one before?

A That issue, no.

Q Not that particular issue.

A I've seen the magazine, that type.

Q Have you ever bought this type of magazine?

A Yeah, I bought them a couple of times, not very much. It's basically the same stuff as the other one.

MR. [REDACTED] Anybody want me to mark this as an exhibit and attach it? Otherwise I'll identify it for the record. Does anybody really want a copy attached to the record? No?

For the record, I've been referring to a magazine titled Robert Kennedy's Muscle Mag International. And the issue is March 1995. I'll tell you what I'll do, though.

Q Have you ever seen this mag before? And we'll mark this as an exhibit.

1
2 A No, not this one. I've seen one where
3 it had a couple other products and it had them up here,
4 but not with the chess board.

5 Q Okay. I'm going to have a photocopy made
6 of this and have it marked as Defendant Exhibit 2 for
7 identification before the depo is over.

8 A I've never seen one where it had Ma Huang
9 in it. And the only other one I've seen it had some
10 type of a citrus. It was by itself. And it was like
11 some type of weight loss thing, citrus, and it said
12 it was no harmful stimulants.

13 That's what I've always been looking,
14 ever since the stroke, through all the magazines, for
15 anything related to Efedrin or Ma Huang, just to send
16 it to my attorney.

17 And it was an Ultimate Nutrition product
18 called Citrus-something, and the one that has all the
19 products in the middle, like the protein powder and
20 most of these here. But it didn't have any Ma Huang.

21 Q Other than reading magazine articles and
22 newspaper articles and things like that have you done
23 any research into medical literature or scientific
24 literature regarding studies on Ma Huang or Efedrin?

25 A No, I haven't. I've seen things from

000082

1
2 people, like I said, in the paper or--but I haven't
3 seen any like studies myself.

4 Q So going back to before we kind of
5 started on this little divergence, you had said that--
6 my initial question had been why you felt that
7 Ma Huang had caused your stroke. And you said that
8 essentially when you asked your doctor, your neurolo-
9 gist, why you had had a stroke he said, "Well, you
10 don't have any of the risk factors. Your cholesterol
11 is low, you're young. It must have been something or--'
12 Strike that.

13 You said that you didn't have any risk
14 factors. You had low cholesterol, you were young.
15 It would have to be explained by either drugs you were
16 taking--and you didn't have any in your system--or an
17 injury, which you hadn't had.

18 A Right. What he said was out of a hundred
19 people my age--I was twenty-nine--he goes "Only one in
20 a hundred would have a stroke, and that stroke would
21 be caused by either like an overdose of cocaine or
22 some type of head trauma," and I had neither. And he
23 could not tell me why I had a stroke.

24 Q Okay.

25 A At that point.

Q So then did he ask you to write down what you had consumed in the preceding twenty-four hours?

A Just he really asked me--because he asked me "Did you eat anything strange that you haven't eaten before?" Or "Did you take anything strange?" Nothing that was out of the ordinary.

And then I said, "It has to be some vitamin supplement or herbal supplement I was taking." So I wrote them down and gave them to him.

Q And then he sent those to a biochemist or a pharmacologist?

A He sent them somewhere.

Q And then did he tell you that in his opinion Ma Huang had caused the stroke or that--what exactly did he say to you at that point?

A He said that's the definite cause.

Q He said that's the definite cause?

A Yes.

Q Which doctor was this?

A My neurologist, which I can't remember his first name. His last name is [REDACTED]

MR. [REDACTED] Go ahead and mark that as Exhibit 2 for identification.

[Thereupon, the document referred to was marked Defendant Exhibit 2 for identification, and a copy of which is attached hereto.]

Q Dr. [REDACTED]

A That's correct.

Q [REDACTED] Ph.D., is the--that's your uncle?

A Right.

Q The biochemist?

A Right.

Q And Dr. [REDACTED] is your--

A Father.

Q What is he a professor in?

A He has his doctorate. I believe it's in math. But he's like--I think his exact title--I don't know. He's something to do with the education department of [REDACTED] He's the head of the education where people get their teaching certificates. He's in charge of sending them to intern places. His exact title at [REDACTED] I'm not sure.

Q Has he done any separate study on Ma Huang?

A No.

Q Did you have a family physician at the

1
2 time the stroke occurred?

3 A Not really, because once we grew out of
4 the age of pediatricians I think I went once to a
5 Dr. [REDACTED] which is my mom's doctor and now my
6 wife's, like general practitioner doctor.

7 That was like ten years ago. And after
8 that I had free high risk county physicals, so there
9 was no need to go. I never get sick, so there was no
10 need to have a doctor, family physician.

11 Q Now, you were eventually discharged from
12 the hospital, correct?

13 A That's correct.

14 Q And how much work did you miss?

15 A I missed about a week and a half or two
16 weeks. But the day after I got out I was so out of it
17 I went back to work.

18 Q You did go back to work?

19 A I went back, and was ordered to go home,
20 because I was just staring at a computer screen. I
21 was trying to type something. I couldn't find the
22 keys on the typewriter. I was in a little office where
23 no one really paid attention to me, so I was so out
24 of it.

25 Q How do you feel your condition is now?

000086

1
2 A Physically I'm like--I wouldn't know what
3 percentage, but I'm not as strong as I was. But, I
4 mean, like your fifty percent or my fifty percent
5 would be better than most people's one hundred percent.

6 I mean, I'm functional, but I'm not my
7 normal self strengthwise. But mentally is the worst,
8 because when I get tired I get everything from my
9 speech--I don't know if you can tell. My speech gets
10 slurred. I mumble, which I didn't do before. My
11 balance is not as good as it was.

12 Q Obviously you're still working out.

13 A Right.

14 Q And you're still keeping your wall chart.

15 A Right.

16 Q Have you noticed a reduction in your
17 ability to lift, a big reduction?

18 A I think I've gained--like after the
19 stroke I lost about ten pounds of muscle gain because
20 I couldn't lift as heavy weight, because I'm not
21 nearly as strong, plus I'm afraid to do heavy, heavy
22 weights. And usually I work out by myself.

23 Q When you're doing bench now what do you
24 work out with now?

25 A I don't go over, much over, two

000087

1
2 twenty-five. And before I could do three eighty-five.
3 I do higher reps, because I don't have anybody to spot
4 me, so I'm afraid to do heavy weights.

5 Q Instead of two or three reps with three
6 eighty-five you'll do--

7 A I do a higher--a lot more reps with a
8 lot lighter weight just so I don't--don't get hurt.
9 Some of the things my wife has told me where I hurt
10 I don't recall. I remember I'll go from one minute
11 after the stroke--and I didn't know she talked to the
12 neurologist.

13 I'll go from one minute mellow--I've
14 always been a mellow person, real laid back--and I
15 get so frustrated and pissed off--excuse my ter-
16 minology there, but--

17 Q Do you play any sports anymore?

18 A Not really. I wrestled in the police
19 olympics in '92. And I was planning on--I couldn't
20 go last year. I was planning on this year going to
21 lift weights and wrestling and maybe karate, but I
22 just--I didn't. I'm not in the shape that I was.

23 Q Do you ever go out with the guys and play
24 football or basketball or anything like that anymore?

25 A Not really. I have like thrown a football

1
2 around, but I haven't played anything organized in a
3 while.

4 Q Your wife mentioned that you had lost
5 about thirty or thirty-five pounds since you got
6 married.

7 A Right.

8 Q Is that true?

9 A Well, I lost about maybe twenty-five
10 pounds right after I got married. Right after I got
11 married I gained about like fifteen or twenty pounds.

12 Q Right after you got married you gained?

13 A We went on vacation, a two-week honeymoon/
14 vacation, and during that time I gained like ten or
15 fifteen pounds, in like two or three weeks. Then I
16 gained like ten more. So after that I lost it, just
17 by not eating any fat. I've always worked out. But
18 I didn't always eat as well as you should.

19 Q When you said--I asked you earlier if you
20 were playing any type of football or basketball with
21 the guys. You said you toss a football around a
22 little. Who do you toss it around with?

23 A Well, it was [REDACTED], who I
24 mentioned before. But I haven't played anything
25 organized. He'd come work out, and, you know, after

working out we'd play catch or something. I haven't played any organized sports.

Q Have you worked out with [REDACTED] since the incident?

A Yeah, after.

Q Since the incident have you lost or gained weight?

A I lost--I'm about the same actual weight on paper, but I think I gained about five or ten pounds in the fat and lost about ten pounds of muscle. So I'm not as strong or as big as I was like in the chest area, because I can't do as heavy a weight.

Q Has any doctor told you that you're more susceptible to another stroke as a result of having this stroke?

A A neurologist. You know, once you have a stroke that area there is weakened arteries.

Q Dr. [REDACTED]

A Yes. And for the rest of your--for the rest of my life I'm always going to stay in excellent shape, so hopefully as long as I don't take anything else I won't have a stroke.

But just the fact of, you know, sixty years down the road when you get older your body wears

000090

1
2 out. I'll be that much more susceptible.

3 Q Do you feel that you're having any
4 marital problems with your wife? You heard what she
5 had to say. What I'm asking you now is what are your
6 feelings about your marriage?

7 A I didn't realize--we've talked about it.
8 I didn't realize I'm nowhere near as, I guess,
9 affectionate as I was. And I get--I mean, now it's
10 not as bad as I was. The poor thing, and my mom too,
11 especially her being living with me. And also she
12 didn't get a break, because she wasn't working. So
13 she was there with me the whole almost twenty-four
14 hours a day.

15 I probably took my frustrations out on
16 her in the sense of just getting angry. And, you
17 know, a lot of things I get angry at and she was the
18 only one there. A couple times I punched a wall in
19 my house. Nothing was ever directed at her, but being
20 there she had to like see it.

21 Q Why were you mad? Do you know why?

22 A I found out it's just normal, from the
23 rehab. That's just a normal part of having a stroke.
24 Actually part of your brain is dead. I was lucky.
25 Some people have every range of--they try to kill

1
2 themselves, they totally lose it, or there's some-
3 thing--I've done a lot of research on strokes after.

4 I want to be back to my normal self,
5 which eventually will be. There's a whole wide range.
6 People don't realize how stressful a stroke is, what
7 it does. The physical part--I actually have a friend
8 of my father's who he's going to get divorced because
9 of a stroke. His was because of his own physical.
10 But I understand what he went through. No one else
11 does.

12 You just don't want to be bothered with
13 anybody around. You just don't have the energy. You
14 really get paranoid. And I'm not like most cops, who
15 are so paranoid. Most cops are very paranoid. And
16 I wasn't like that.

17 Now I'm pretty paranoid, in the sense of
18 I'm afraid to take even cold medication, so--
19 apparently it has Efedrin in it. Some of the nasal
20 congestants has Efedrin in it. Now, it's not the
21 same amount that Ma Huang has. That's just how
22 paranoid I am.

23 Q Do you know what the concentrations are
24 in, say, Supafedrin or Sudafed cold medication, as
25 compared to the concentrations in this Ma Huang?

000092

1
2 A No, I don't know. The Ma Huang--I didn't
3 even know it had Efedrin in it.

4 Q What I'm asking is do you know now?

5 A No, I don't know. Even now I don't know
6 the exact--from what I've learned, people have said,
7 unless it's standardized the concentrations vary from
8 harvest to harvest, even caplet to caplet.

9 One caplet may have more of the mixture
10 than another one, just by the way it comes out of the
1 mixture in the machine. But I don't know.

2 [Thereupon, a brief recess was taken,
after which the following proceedings were had:]

Q I think I'm just about finished. I just
have a couple more questions, and then we'll pass the
ball to the other Mr. [REDACTED]

Other than Palmetto Berries and the
Ma Huang had you taken any other dietary supplements
other than vitamins in the twenty-four hours preceding
the stroke?

MR. [REDACTED] Object to the form.

A Exactly right before--I think I have
it written down somewhere, but I don't recall exactly.
But I had taken the [REDACTED] brand, generic brand, of
Chromium Picolinate, and I had taken sometime that

000093

1
2 month--no, it wasn't that month before--sometime that
3 year-- Yohimbe Bark, which was--but it wasn't that
4 week or I don't think it was that month, because I
5 remember I had a bottle, but I didn't take it for a
6 while, because I really couldn't tell the effect.

7 The only thing I've ever taken where I
8 can tell that it works is Ma Huang. I mean, everybody
9 needs a good, you know, multi-vitamin. But, to be
10 honest--I know [REDACTED] won't want to hear this--but all
11 the supplements are a waste of money. If you eat
12 right all you need is a multi-vitamin or maybe a
13 protein supplement.

14 Q Your wife had referred to something in
15 her deposition as Chromium Picolino. I think you
16 just referred to it as Chromium Picolinate. It's
17 the same thing?

18 A Exactly. She doesn't take anything except
19 for a multi-vitamin.

20 Q What was the name of it, Chromium--

21 A Chromium Picolinate. And I quit taking
22 that too. And I didn't tell any effects. There were
23 studies that said that would retain lean body mass
24 while helping--while like eating low calories, so you
25 wouldn't lose any muscle. Most people have the wrong

1
2 idea. They go on diets and don't eat anything, and
3 they lose muscle first.

4 Q How long had you been taking Chromium
5 Picolinate?

6 A The exact dates I don't recall. I may
7 have them written down, but I don't recall exactly.
8 But I didn't take it that long, because I had a
9 bottle, because I guess it was like two for one. I
10 still have a bottle. It's not even opened. It was
11 buy one, get one free or half price, however it was,
12 from [REDACTED]

13 Q Have you ever taken steroids in your
14 life?

15 A No, never.

16 Q Never utilized steroids in any fashion?

17 A No.

18 Q Did you ever know anybody who did?

19 A Not friends of mine. I've heard of
20 people that did. I know of some police officers who
21 I know they are, because there's no way they could
22 have got that big that quick.

23 MR. [REDACTED]: Just for the record,
24 we're talking about anabolic steroids,
25 right?

1
2 MR. [REDACTED] I guess so. I don't
3 know the difference.

4 MR. [REDACTED] There's corticoid ster-
5 oids. There's all different--

6 THE WITNESS: I've never taken medi-
7 cation, steroids or--

8 BY MR. [REDACTED]

9 Q I'm talking about the kind you hear about
10 weight lifters taking, you hear about athletes taking,
11 to build up quick muscle mass. And you say you know
12 of some police officers that have or you think they
13 have?

14 A You could tell just by someone putting
15 on fifty pounds of muscle over a summer. It's im-
16 possible to do it without some type of drug, in my
17 opinion. I may be wrong. I've always been big since
18 I was a little kid. I was big and muscular.

19 My problem has always been having a
20 little belly, to lose the excess belly. But I've
21 never taken any kind of muscle enhancing drugs or any-
22 thing.

23 Q Okay. I think I've already asked this.
24 Just to make sure, have any of your immediate rela-
25 tives--and by immediate relatives I mean your mother,

000096

1
2 father, aunts or uncles or your sister [REDACTED]--have
3 any of those people been diagnosed with hypertension?

4 A No. I think my father was taking high
5 blood pressure medication, but he lost weight and it
6 went away. But no one else has had any hypertension
7 type. And actually that's what saved me, having low
8 blood pressure, lower than normal, and lower than
9 normal heart rate, which the night I was in the hos-
10 pital they kept--I guess there was some rookie nurses
11 kept waking me up because my heart rate would go down
12 real low.

13 They said, "What's wrong with your heart?"
14 on the heart monitor. And I guess a young doctor who
15 knew sports medicine, that type of deal, said, "That's
16 good. You want your heart rate to be low." That's
17 really what prevented me from having a lot worse than
18 a stroke. If I had high blood pressure a lot more
19 blood would have been pushed in my brain. People know
20 all these like Ma Huang, any type of dietary supple-
21 ments, most people take them--I was in real good shape--
22 most people that take them are out of shape and don't
23 work out, and they take them for the first time, and,
24 boom, they either have a heart attack or stroke. And
25 that's really dangerous.

000097

1
2 MR. [REDACTED] I don't think I have
3 anything further right now. Mr. [REDACTED]

4 DIRECT EXAMINATION

5 BY MR. [REDACTED]

6 Q I have a few. You mentioned that you
7 purchased this Ma Huang on a number of occasions, but
8 you can't say exactly how many, at the [REDACTED] store. Was
9 that always at that same [REDACTED] store?

10 A Yeah.

11 Q At [REDACTED]

12 A I live right behind the little mall. I
13 can walk there. And I have bought things from like
14 the [REDACTED], I think the [REDACTED]
15 And there's another one close to my house, like [REDACTED]
16 [REDACTED] But usually I go to
17 that one right there, because it's so close. It's
18 right around the corner.

19 Q So all of the Ultimate Nutrition product
20 Ma Huang was purchased at that one near your house,
21 on [REDACTED]

22 A Right. I'm pretty sure, almost a hundred
23 percent sure, that everything I bought since living
24 there--and I bought that house in '90--I bought from
25 that [REDACTED], unless I happened to be maybe at [REDACTED]

1
2 or something.

97

3 Q Can you recall as we sit here today whether that ever happened?

4 A I don't think I bought Ma Huang anywhere
5 except for that [REDACTED] because it was recently. But
6 when I was like in junior high I'd buy protein powder
7 from [REDACTED], twelve years ago, fifteen years.

8 Q You had mentioned that there was a person
9 at [REDACTED] that you talked to about the Ma Huang. Do you
10 know what that person's name was?

11 A No. I don't know if it was the owner-
12 operator or just somebody that worked there. But I
13 asked if you have Ma Huang separate, and he showed me
14 the Ultimate Nutrition and said it was a real good
15 brand. And I had heard about it before, they're a
16 good brand.

17 Q So you asked him whether they carried
18 Ma Huang, and he said, "yes, I've got it"?

19 A Right.

20 Q Do you know whether there were other
21 brands?

22 A I don't know. Me, myself, I've never
23 seen Ma Huang sold separately except for by Ultimate
24 Nutrition. I've never seen it like in another--
25

000099

1
2 another brand or another--I don't think [REDACTED] sells it
3 by itself, because I did look, because it probably
4 would be cheaper to buy it from [REDACTED] But they didn't
5 have it.

6 Q So it would be fair to say then you've
7 never seen any [REDACTED] literature about Ma Huang?

8 A Not that I recall. I don't think so.

9 Q You also mentioned that you went to some
10 other [REDACTED] stores, I believe, after you had your stroke,
11 to see if they sold this Ultimate Nutrition Ma Huang,
12 and you didn't find it in any of those stores.

13 A Yeah. After I had the stroke and after
14 a few months, out of curiosity I wanted to know if
15 they still sold it. And I got answers going from "It's
16 illegal"--which I thought it is illegal, which ap-
17 parently it's not--to "We can't sell it." I don't
18 know if it's [REDACTED] policy because of lawsuits, but I
19 couldn't find any, no. Nobody would sell it by it-
20 self.

21 I believe it was [REDACTED] It was either
22 [REDACTED] or the [REDACTED] It was somewhere. We were out
23 one night. And I didn't tell them I had a lawsuit
24 pending. Out of curiosity I went in there and said,
25 "Do you sell Ma Huang?"

1
2 And he said, "No. You can only get it
3 when it's combined with other things, but you can't
4 get it pure." I wasn't going to buy it. I was going
5 out of curiosity, trying to find out.

6 Q Other than the stores you just mentioned
7 do you remember any of the other stores that you went
8 to to check this out?

9 A I think maybe the one at [REDACTED]
10 [REDACTED], because I had training a while back at the
11 [REDACTED], where at lunch we'd go over to
12 [REDACTED] And I walked around. But I can't
13 recall any other places.

14 Q The person at [REDACTED] who mentioned this to
15 you, can you describe that person?

16 A It was a younger guy, I remember, because
17 he's always been there. I believe he's either the
18 owner or the owner's son. He's not young. He's like
19 my age, thirtyish.

20 Q That's pretty young.

21 A Early thirties or late twenties. He was
22 usually there all the time.

23 Q You don't know a name or anything?

24 A No.

25 Q Do you know anybody at that store, the

store near your house, by name?

A No.

Q You said you still have your [REDACTED]

[REDACTED] at home?

A That's correct.

Q Does that have a number that identifies you? Do they have an account that they--

A I don't know if it has an account number, but it--I think they typed it up, and it had like the expiration date on it. But I can't remember. I can't picture it.

Q Was that good in any store or just the one store?

A I think any store, any [REDACTED] nationwide.

Q Was that issued to you at the store near your house?

A Yes, it was that store, because I had always gone in there. And I remember them saying, "You come in here a lot. You might as well--" I thought it was like a credit. I never got it before. I thought it was like a credit card, which I don't want to take out credit. But it was just, I guess, like a club membership type card.

Q We may have already asked this. If we

1
2 did I apologize. Do you recall the month and year
3 that you first took the Ultimate Nutrition Ma Huang?

4 A I believe sometime the end of '93.

5 Exactly--

6 Q End of '93?

7 A Probably around November, December '93.

8 Q And when did you last take it?

9 A July--the night before I had the stroke.

10 I don't recall. It was like the 12th or 13th; the
11 13th.

12 Q Never took any after that night?

13 A No. I quit taking everything. I even
14 found out my wife's vitamins from [REDACTED], the [REDACTED]
15 the ultra mega, had Chinese Efedrin in them as a
16 filler. So I took those away. I told her "You can't--
17 don't take them."

18 It wasn't nowhere near the amount--and
19 after that I was so paranoid when I found out what--
20 once I found out Efedrin was in cold medication, for
21 like bronchial dilators and different types of
22 medication, I don't even take cold medication.

23 Q When was it that Dr. [REDACTED] advised you
24 that he related your stroke to the Ma Huang?

25 A Exactly I'm not sure. I had to go back

1
2 to him a couple days after I got out of the hospital.
3 And then I think I want like on a monthly basis for a
4 while. And there was nothing they could really do.
5 Once you have a stroke there's not much you can really
6 do.

7 It depends on what type of problems you
8 have. So I go--he would just give me a general like
9 blood pressure, just a general test. It was one of
10 these visits.

11 Q So it wasn't while you were still in the
12 hospital?

13 A No. When I got discharged from the
14 hospital he didn't--no one knew why I had a stroke.
15 And it was like he said, it was the strangest thing.
16 He couldn't tell me why--what would have caused it
17 right then, because to have a stroke you usually have
18 high blood pressure or you have high cholesterol or
19 you smoke or something. That's--

20 Q For how long did you continue to see him
21 on a monthly basis?

22 A I haven't been back in a while, a couple
23 of months or so.

24 Q Other than Dr. [REDACTED] do you see any
25 other doctors?

1
2 A I saw a Dr. [REDACTED] at [REDACTED]
3 Apparently what I've gathered from her is that most
4 neurologists only deal with like the physical part.
5 They don't really deal with the emotional part of the
6 stroke or the rehab type. They just deal with "Okay.
7 You're physically fit now." And that's kind of like
8 it.

9 Q So Dr. [REDACTED]

10 A [REDACTED] then [REDACTED] I think her name
11 is [REDACTED] or [REDACTED] or something.

12 Q So how often do you see her?

13 A I've only seen her once so far.

14 Q At [REDACTED]?

15 A Yes.

16 Q Any other doctors that you've seen since
17 you were discharged from the hospital, for this?

18 A No. That's it.

19 Q Have you had any neuro psychological
20 evaluations or anything like that since the stroke?

21 A I have one coming up, but I haven't--a
22 test where they--

23 Q Yes?

24 A See what parts of your brain--I have one
25 coming up, but I haven't had one.

1
2 Q Is that through Dr. [REDACTED] or somebody
3 else?

4 A Dr. [REDACTED] My wife tried to get me
5 to go a long time ago. Basically I was in denial I
6 had even had a stroke. I tried to go back even to
7 work. I've never called in sick. After a while I got
8 all my sick leave. I never missed. I refused to
9 take sick leave. They made me take off. I'd take
10 annual leave.

11 She's got a degree in mental health or
12 something. Poor thing. She knew more than the
13 average citizen how serious it was. My mom tried--
14 her and my mom tried to get me to go--this is before
15 Christmas--to either some type of counseling or some-
16 thing. I was just--I didn't realize how screwed up
17 I really was. And as I got better I realized I was
18 out of it.

19 Q Who is your current supervisor on the
20 force?

21 A Lt. [REDACTED] She's really only
22 been my supervisor since May. The one I had when I
23 had the stroke was Lt. [REDACTED] She was my
24 supervisor. Actually she was my supervisor from when
25 I had the first--got transferred there and had the

stroke until May. Almost a whole year I had her as my supervisor.

Q Are you still assigned out of [REDACTED]

A Well, I have a special unit that I just have-[REDACTED] high crime area. And I've got five guys assigned to me.

Q Do you operate out of [REDACTED] station?

A We have a--it's [REDACTED] Station there, but we have our own station, which it's in [REDACTED] It's in the shopping mall across from [REDACTED] What it is, we have a special unit where we just target the high crime area. We do everything from drugs to community type things. Like we're doing an [REDACTED] Saturday. Our squad will be the one that's there.

Q Is that the same unit that you were in before you had the stroke?

A No. I was just regular uniform patrol when I had the stroke.

Q How long after your stroke were you assigned to the high crime unit?

A Almost a year, about ten months, ten months later.

Q So it's been about what, five months,

1
2 I guess, since?

3 A That I've been in?

4 Q Yes.

5 A Since May. So June, July, August.

6 Q Four months.

7 A Thres and a half.

8 Q Was that considered a promotion?

9 A It's a specialized unit. It's really
10 not a promotion. Our promotions are strictly like
11 corporal, sergeant, lieutenant.

12 It's just that it's a good job, and it's
13 a high crime area. I spent so much time in [REDACTED]
14 [REDACTED] in the high crime area that they picked me for
15 that, that job, when it came up.

16 Q Have you had any job performance evalua-
17 tions since your stroke?

18 A I had one, I think, July.

19 Q This past July?

20 A Yeah.

21 Q How was that evaluation?

22 A It was above satisfactory.

23 Q Is that consistent with the kinds of
24 evaluations you had before the stroke?

25 A The one I had right before was

1
2 outstanding, which was the highest you can get. Like
3 a 1 thru 9 it was all 8-1/2s and 9's. And then the
4 next was above satisfactory, 6, 7 and 8.

5 Q Is that the next level below out-
6 standing?

7 A Right.

8 Q Other than the one right before your
9 stroke how many other outstanding evaluations had you
10 had?

11 A I think one, just one other one. What
12 they do is you have both yearly and monthly evalua-
13 tions. All my monthlies, which they were outstanding,
14 most sergeants--most sergeants wouldn't give someone
15 outstanding evaluations even though their monthlies
16 reflect it.

17 I've given a few outstanding. I've given
18 exactly what he deserves. But ever since I was a
19 rookie they have all been above, either above or out-
20 standing.

21 Q Do you know if you still have any of the
22 credit card receipts for any of the purchases you would
23 have made with credit cards?

24 A No. I tried to find them for them, and
25 I even--I even requested my--I think the [REDACTED]

1
2 [REDACTED]-how they give you a printout at the end of
3 the year, just to see if it was on there. But I
4 couldn't find it. I don't have the receipts. But
5 I tried to find out if it was on the printout, but
6 I couldn't find it.

7 MR. [REDACTED] I think that's all I
8 have. Thanks a lot, Mr. [REDACTED]

9 MR. [REDACTED] Well, I don't
10 think I have anything either. Thank you,
11 Mr. [REDACTED]

12 MR. [REDACTED] We'll read.

13 [Thereupon, the reading and signing of
14 the deposition were waived, and the deposition was
15 concluded at 3 p.m.]

16 FURTHER DEPONENT SAYETH NOT.

17
18 _____
19 DEPONENT

20 Subscribed and sworn to before me
21 on this ____ day of _____ 1995.

22 Notary Public in and for the
23 [REDACTED]

24 My Commission expires:
25

ACKNOWLEDGMENT OF DEPONENT

[REDACTED] SS.
[REDACTED]

I, [REDACTED], having been first
duly sworn, do hereby acknowledge that I have read
my deposition given in the above-styled cause and
that the corrections I desire to make are as indi-
cated on the attached errata sheet.

Done and signed this ____ day of ____
1995.

Deponent

NOTARY PUBLIC

Subscribed and sworn to before me
on this ____ day of ____ 1995.

Notary Public in and for the
[REDACTED]

My Commission expires:

000111

CERTIFICATE OF OATH

[REDACTED]
:SS.

I, the undersigned authority, certify
that [REDACTED] personally appeared before me
and was duly sworn.

WITNESS my hand and official seal this

[REDACTED] day of [REDACTED] 1995.

[REDACTED]
[REDACTED]
OFFICIAL NOTARY SEAL
[REDACTED]

000112

REPORTER'S DEPOSITION CERTIFICATE

[REDACTED]
[REDACTED] :SS.

I, [REDACTED] shorthand reporter,
certify that I was authorized to and did steno-
graphically report the deposition of [REDACTED]
that a review of the transcript was requested; and
that the transcript is a true and complete record of
my stenographic notes.

I further certify that I am not a rela-
tive, employee, attorney, or counsel of any of the
parties, nor am I a relative or employee of any of the
parties' attorney or counsel connected with the action,
nor am I financially interested in the action.

DATED this [REDACTED] day of [REDACTED] 1995.

[REDACTED]

000113

TO:

NOTICE TO DEPONENT

CASE STYLE:

DEPOSITION OF:

DATE OF DEPOSITION:

Your deposition given in the above-styled case has been transcribed and delivered to the attorneys involved. If you wish to read and sign your deposition, you may do so by contacting your own attorney or the attorney who took your deposition and make an appointment to do so at their office. You may also contact our office for further information and assistance. This should be done before the trial or within the next 21 days. Attached is an errata sheet for your use, if necessary. This sheet must be signed by you and notarized and returned to the attorneys mentioned or to this office. If you at this time wish to waive your right to read and/or sign the deposition, please notify the attorneys involved. If no action is taken by you in this regard, the deposition may be filed in the court and your rights will be deemed waived.

Court Reporters

000114